

whereby placement of the sensor site in the casing of the pen-based computing device enables a continuous capture of a facial image print while the pen-based computing device is being used.

### REMARKS

Applicant acknowledges and thanks the Examiner for his careful and thorough examination of the present application. Favorable reconsideration is respectfully requested.

In the Office Action of February 24<sup>th</sup>, 2005, the Examiner objected to the drawings lacking reference numerals (except FIGURES 3A and 3B). Enclosed with this Amendatory Response are replacement sheets for FIGURE 1, FIGURES 1A and 1B, FIGURES 2A and 2B, and FIGURES 4A and 4B. The only changes made to these drawings are the addition of such reference numerals, which are circled. These drawing changes necessitated the addition of these reference numerals to the specification. These changes are also incorporated in this Amendatory Response. Also, three typographical errors, each being clear from a reading of the specification, are being amended; one on Page 6, Line 12 (adding the word "sensor"), another on Page 9, Line 6 (adding the word "sensor"), and another on Page 9, Line 8 (deleting the word "sensor"). No new matter has been added.

The Examiner rejected all pending claims (1-17) under 35 U.S.C. §112, second paragraph, because the use of the phrases "seamless" and "routine computer usage" made the claims indefinite. Rather than amending the existing claims to modify such language, Applicant has opted to cancel all pending claims and replace them with three new claims.

In the above-identified Office Action, the Examiner rejected Claims 1, 3-7, 9-14, 16, and 17 under 35 U.S.C. §102(a) as being anticipated by U.S. Patent 6,182,221 (Hsu et al.); and he rejected Claims 2, 8, and 15 under 35 U.S.C. §103(a) as being obvious by the combination of U.S. Patent 6,182,221 (Hsu et al.) and U.S. Patent 6,076,167 (Borza).

The test for determining if a reference anticipates a claim, for purposes of rejection

under 35 USC §102, is whether the reference discloses all of the elements of the claimed combination, or the mechanical equivalents, functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals of the Federal Circuit in *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick*, 221 USPQ 481, 485 (1984), in evaluating the sufficiency of an anticipation rejection under 35 USC §102, the Court stated:

“Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.”

Applicant has opted to focus attention herein to Claim 13. Rather than patch Claim 13 to eliminate the “seamless” and “routine computer usage” language objected to by the Examiner, Applicant has opted to rewrite it. Claims 18, 19, and 20 are essentially a rewrite of old Claim 13, their sum total being somewhat narrower in scope. Claim 13 included the word “biometric” to refer to the type of image captured. The new claims are more specific: Claim 18 is limited to the capture of a thumbprint image; Claim 19 is limited to the capture of palm print image; and Claim 20 is limited to the capture of a facial image. Also, the three claims are now directed to pen-based computers.

## SUMMARY OF THE INVENTION

Applicant’s invention, as now claimed, is quite specific, being directed to the capture of biometric data captured by a pen-based computer when access is requested through the pen-based computer to secure data, and the placement of the biometric sensor. In each instance, the placement of the thumbprint sensor (Claim 18), palm print sensor (Claim 19), or facial image sensor (Claim 20) enables a continuous capture of the biometric image. For example, Claim 18 now requires the placement of the fingerprint sensor site in the casing of the pen-based computing device enabling (1) capture of the thumbprint image (2) of the user hand holding the pen-based computing device (3) for purposes of identity authentication prior to each request to access the secure data while the pen-based computing device is held. The image capture is incidental in that it is unnecessary for the user even to know each time the image is captured.

Also, the claims are now directed to pen-based computers. With regard to Claims 18 and 19, while one hand of the user is using a stylus to scroll through screens, the hand of the user holding the pen-based computer is used to capture biometric data to confirm user identity. This feature also enables the biometric data to be captured and preserved as a time and date stamp for each such access request.


U.S. Patent 6,182,221 (Hsu et al.) involves remote cellular phone access by use of fingerprint sensors. But the reference is silent as to the issues of sensor placement and incidental capture. And, since each of the three pending claims of the present invention only recite the capture of one biometric, U.S. Patent 6,076,167 (Borza) is no longer an issue. Neither the Hsu reference nor the Borza reference teaches, discloses, or even suggests the issue of sensor placement or provides an incidental capture of biometric data. Clearly, Claims 18, 19, and 20, as amended, are patentable over either reference or their combination.

### Conclusion

In view of the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. An early notice thereof is earnestly solicited. If after reviewing this Response, there are any remaining informalities which need to be resolved before the application can be passed to issue, the Examiner is invited and respectfully requested to contact the undersigned by telephone in order to resolve such informalities.

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Respectfully submitted,



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